IN THE COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1694 OF 2006

Nandkumar Bhaskaran Nair ...Petitioners

vs.

State of Maharashtra & Ors. ...Respondents

C.P.Deogirikar for the Petitioners.

Prashant Nair for the Respondents.

Mr.Salkar, AGP for Respondents.

CORAM: S.C.DHARMADHIKARI, J.

DATE ; 23RD FEBRUARY, 2007.

P.C :-

1. Heard learned counsel for the parties.

2. Mr.Deogirikar, cannot dispute the fact that the action of the Respondent No.3 Bank under challenge in this petition is seeking the Recovery Certificate from the Deputy Registrar under Section 101 of the

Maharashtra Co-operative Societies Act, 1960 In other words, his powers to grant such a Certificate have been invoked and during the pendency of the Petition a Certificate under Section 101 of the Maharshtra Co-operative Societies Act, 1960 has indeed been granted. That Certificate is dated 2.3.2006.

3. Mr. Deogirikar, contends that this is the second Recovery Certificate and the Bank cannot resort to Section 101 when the Petitioner had made payment of Rs.8 lacs in full and final settlement of the Bank’s dues.

4. Mr.Naik, disputes this position and submits that the proceedings before the Deputy Registrar would indicate that the Petitioner has no dispute, in so far as, the claim of the Bank is concerned.

5. In my view, now that Recovery Certificate has been granted, the remedy of the Petitioner is to invoke the jurisdiction of the Divisional Joint Registrar under Section 154 of the Maharashtra Co-operative Societies Act, 1960 and comply with the

mandate of sub-section 2A thereof. This remedy is efficacious and it would be open for the petitioner to raise all such pleas as are permissible in law before the Divisional Joint Registrar.

6. Mr.Deogirikar, states that the Petitioner would approach the Revisional Authority, but, the Application should not be rejected on the ground of delay. The Petitioner can be protected. Accordingly, it is directed that if the Revision Application is filed within a period of two weeks from today, the Respondent No.3 Bank would not raise the plea of limitation before the Divisional Joint Registrar. Needless to state, that if it is not filed within this period, it would be open for the Divisional Joint Registrar to consider the objection of the Bank with regard to limitation and delay. Petition is dismissed on the ground of availability of an alternate equally efficacious remedy and with the clarification as above.

7. Further needless to add, that, if the Revision Application is filed and entertained, the same shall

proceed on its own merits and in accordance with law, provided the Petitioner complies with the requirement of deposit as well. Petition dismissed. In view of the dismissal of the petition itself, Civil Application taken out by the Petitioner does not survive and the same is dismissed as infructious.

sd/-

(S.C.DHARMADHIKARI, J)